

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CATALINO ORTIZ,
Plaintiff,

v.

MATTHEW WHITAKER,
Defendant.

Case No. [4:19-cv-00235-KAW](#)

**ORDER CLOSING CASE AND
DIRECTING THE CLERK OF COURT
TO FILE PETITION IN CRIMINAL
CASE**

Re: Dkt. No. 1


On January 11, 2019, Petitioner Catalino Ortiz filed a petition for writ of error *coram nobis*. (Dkt. No. 1.) Counsel erroneously e-filed the petition as a habeas petition in a separate civil action, rather than as a motion in the criminal case. *See United States v. Morgan*, 346 U.S. 502, 505 n.4 (1954) (A writ of error *coram nobis* “is a step in the criminal case and not, like habeas corpus where relief is sought in a separate case and record, the beginning of a separate civil proceeding.”)

Since the present request was filed as a separate action, the undersigned directs the Clerk of Court to file a copy of the petition and its exhibits in Petitioner’s criminal case, *United States v. Ortiz*, Case No. 5:00-MJ-00237. Additionally, once the criminal case is reassigned to an active magistrate judge, Petitioner is directed to furnish the assigned judge with a chamber’s copy of the petition and its tabbed exhibits.

In light of the foregoing, the civil action is hereby CLOSED.

IT IS SO ORDERED.

Dated: January 14, 2020


KANDIS A. WESTMORE
United States Magistrate Judge